

#### **IC 14-26-4**

##### **Chapter 4. Lakes; Average Normal Water Level**

#### **IC 14-26-4-1**

##### **"Average normal water level" defined**

Sec. 1. As used in this chapter, "average normal water level" of a lake means the level between high water that occurs as a result of excessive precipitation and low water that occurs during protracted dry periods that will do the following:

- (1) Provide the most benefit to the public.
- (2) Best protect the public health, welfare, and safety.
- (3) Best preserve the natural resources of Indiana.

*As added by P.L.1-1995, SEC.19.*

#### **IC 14-26-4-2**

##### **Establishment and maintenance of average normal water level**

Sec. 2. The department may do the following:

- (1) Have established, by appropriate legal action, the average normal water level or area of all natural and artificial lakes of Indiana.
- (2) Construct or sponsor and supervise the construction of dams, spillways, and control works necessary to maintain the average normal water level.

*As added by P.L.1-1995, SEC.19.*

#### **IC 14-26-4-3**

##### **Reports; preparation**

Sec. 3. A concise report containing a description of the lake and location, together with all data necessary to reveal and fix:

- (1) the average normal water level or area of the lake; and
- (2) the highest elevation to which the water has risen during the prior ten (10) years;

shall be prepared and signed by an officer of the department.

*As added by P.L.1-1995, SEC.19.*

#### **IC 14-26-4-4**

##### **Method of determination**

Sec. 4. The average normal water level shall be determined by means such as the following:

- (1) Old surveys.
- (2) Testimony of old inhabitants.
- (3) The extent to which drainage and other artificial causes have increased or decreased the natural ground water of the area and affected the water levels of the lake.
- (4) Water level measurements made by the following:
  - (A) The United States Geological Survey.
  - (B) The department.
  - (C) Other agencies.
  - (D) Individuals.
- (5) Any other pertinent surrounding facts or circumstances.

*As added by P.L.1-1995, SEC.19.*

#### **IC 14-26-4-5**

##### **Reports; filing**

Sec. 5. The department shall file the report with the following:

- (1) The commission.
- (2) The clerk of the circuit court with jurisdiction in the county in which the greatest area of the lake is situated.

*As added by P.L.1-1995, SEC.19.*

#### **IC 14-26-4-6**

##### **Reports; docket; notice**

Sec. 6. The clerk of the circuit court shall do the following:

- (1) Immediately docket the report as a cause of action pending in the circuit court of the county.
- (2) Cause notice to be published for two (2) consecutive weeks in two (2) newspapers of general circulation in each county in which the lake is situated. The notice must briefly describe the nature of the report and fix a day for the hearing of the report.

*As added by P.L.1-1995, SEC.19.*

#### **IC 14-26-4-7**

##### **Court to hear evidence**

Sec. 7. The court shall, on the day fixed in the notice or on a later day to be fixed by the court, hear all of the evidence submitted respecting the matter submitted by the following:

- (1) The department.
- (2) Any other agency of government.
- (3) Any affected landowners.

*As added by P.L.1-1995, SEC.19.*

#### **IC 14-26-4-8**

##### **Findings; judgments**

Sec. 8. (a) After the hearing, the court shall do the following:

- (1) Make findings of fact.
- (2) Give an appropriate judgment establishing the level and area of the lake.

(b) If the judgment is favorable to the moving party, a description of:

- (1) a monument;
- (2) the location of the monument; and
- (3) all data furnished by the report;

shall be made a part of the court's findings and judgment by reference.

*As added by P.L.1-1995, SEC.19.*

#### **IC 14-26-4-9**

##### **Lake level record**

Sec. 9. (a) If the judgment is favorable to the moving party, the findings and judgment of the court properly certified by the clerk of

the court shall be recorded in a lake level record to be kept in the recorder's office of each county having land draining into the lake. Each county in which is situated a lake other than a private lake shall provide record books for this purpose. The county recorders may make the recordings by pasting or otherwise securely attaching the report containing all descriptive material in the record, which shall be properly indexed and paged.

(b) The clerk and the county recorder may not make or enter of record a charge for their services.

(c) Certified copies of the record of the judgment of the court as kept in the office of the clerk of the circuit court and of the records recorded in the office of the county recorder shall be received in evidence in any court in Indiana as conclusive evidence of all matters contained in the records.

(d) The department shall make and keep a similar record as a part of the public records of the state.

*As added by P.L.1-1995, SEC.19.*

#### **IC 14-26-4-10**

##### **Monument**

Sec. 10. Within one (1) year after the court has established the average normal water level or area, the department shall construct a suitable permanent monument as prescribed in the findings of the court on the shore of the lake. The monument must contain the following:

- (1) The name of the lake.
- (2) The average water normal level.
- (3) The size if established.
- (4) The highest level to which the lake has risen during the ten (10) years preceding the time of the filing of the complaint.

*As added by P.L.1-1995, SEC.19.*

#### **IC 14-26-4-11**

##### **Applicability to dams, spillways, and control works**

Sec. 11. The requirements and procedure prescribed by this chapter for reports, notice, court procedure, and record apply to all dams, spillways, and control works provided for in this chapter.

*As added by P.L.1-1995, SEC.19.*

#### **IC 14-26-4-12**

##### **Construction of dams, spillways, or control works**

Sec. 12. The department may do the following:

- (1) Accept contributions or grants-in-aid from:
  - (A) an individual;
  - (B) a group of individuals; or
  - (C) county, state, or federal agencies;

to finance the construction of dams, spillways, or control works to maintain the average normal water level of a lake.

- (2) Sponsor the building of dams, spillways, or control works to maintain the average normal water level of a lake.

(3) Sponsor the building of dams, spillways, or control works  
by:

(A) an individual;

(B) a group of individuals; or

(C) county, state, or federal agencies.

The department shall supervise the construction.

*As added by P.L.1-1995, SEC.19.*